

**Letter of Findings Number: 09-0699
Individual Income Tax
For the Year 2007**

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ISSUE

I. Individual Income Tax – Imposition.

Authority: IC § 6-3-3-12.

Taxpayers protest the assessment of individual income tax.

STATEMENT OF FACTS

Taxpayers are a married couple. Prior to December 13, 2007, Taxpayers had not established an account with the Indiana College Choice 529 Plan ("529 Plan"). Taxpayers mailed their account registration to the 529 Plan Administrator with a request to transfer funds from another college savings plan. The 529 Plan Administrator received the application and requested that the other plan's administrator transfer the requested funds. However, the administrator of the other plan did not transfer the funds to the 529 Plan Administrator until after January 1, 2008.

On Taxpayers' 2007 individual income tax return, Taxpayers claimed a credit based on the above-referenced contribution. The Indiana Department of Revenue ("Department") disallowed the credit and assessed additional tax that would have been due absent the credit. Taxpayers protested the assessment, the Department conducted an administrative hearing, and this Letter of Findings results.

I. Individual Income Tax – Imposition.

DISCUSSION

Taxpayers protest the disallowance of the credit for contribution to the 529 Plan. In particular, Taxpayers argue that they submitted the requisite paperwork prior to the end of 2007; therefore, Taxpayers conclude that they relinquished their rights to the funds in 2007 and were eligible for the credit.

IC § 6-3-3-12(i) states:

A taxpayer is entitled to a credit against the taxpayer's adjusted gross income tax imposed by [IC 6-3-1](#) through [IC 6-3-7](#) for a taxable year equal to the least of the following:

(1) Twenty percent (20 [percent]) of the amount of the total contributions made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year.

(2) One thousand dollars (\$1,000).

(3) The amount of the taxpayer's adjusted gross income tax imposed by [IC 6-3-1](#) through [IC 6-3-7](#) for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by [IC 6-3-1](#) through [IC 6-3-7](#).

The issue is whether the 529 Plan contributions were made in 2007. Taxpayers have provided sufficient information to conclude that their contribution was in fact made in 2007; therefore, Taxpayers' protest is sustained.

FINDING

Taxpayers' protest is sustained.

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